

ZAPATA vs. MARTINEZ, et al.
1:21-cv-00083-MV-JFR

Monica Garcia
March 31, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SUSIE ZAPATA AND MONICA GARCIA,

Plaintiffs,

v.

Case 1:21-cv-00083-MV-JFR

LEON MARTINEZ, ROBERTA LUCERO-ORTEGA,
ARTHUR SANCHEZ, BERLEEN ESTEVAN,
and SUMMER FOOD SERVICE, LLC,

Defendants.

DEPOSITION OF MONICA GARCIA

March 31, 2022

9:29 a.m.

All Participants Appeared Through Zoon Videoconference

The Deponent Was Located at:
The Law Offices of NM Prison & Jail Project
3800 Osuna Road, NE, Suite 2
Albuquerque, New Mexico

PURSUANT TO THE FEDERAL RULES OF CIVIL PROCEDURE,
this deposition was:

TAKEN BY: LISA ENTRESS PULLEN, ESQ.
ATTORNEY FOR DEFENDANTS BERLEEN ESTEVAN
AND SUMMIT FOOD SERVICE

REPORTED BY: TANYA M. NIMS, RPR, NM CCR #168
WILLIAMS & ASSOCIATES COURT REPORTING, LLC
317 Commercial Street, Northeast
Suite G-101
Albuquerque, New Mexico 87102

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1 transferring and breaking and entering.
2 Q. Was there also the domestic violence conviction
3 in 2015?
4 A. Yes.
5 Q. Were you at jail at MDC in 2015 for multiple
6 reasons, domestic violence, possession, and breaking and
7 entering?
8 A. No. It was domestic violence and a careless
9 driving that I was -- for 2015.
10 Q. And for how long were you at MDC for those
11 offenses?
12 A. Roughly three months.
13 Q. During those three months, did you do any work at
14 MDC?
15 A. I was in the program pod. I was doing a ATP
16 program.
17 Q. And what is that?
18 A. It's like for drug -- it's like a drug program.
19 Q. It's like a drug rehabilitation program?
20 A. Yeah. Something like that.
21 Q. Does it actually work though?
22 A. When I got out, like I was clean for a little
23 bit; but I started using again.
24 Q. Okay. So in 2015 you went back to prison or --
25 jail or prison?

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1 A. Jail. Yes.
2 Q. And the second time in jail in 2015 was the one
3 for the possession and breaking and entering?
4 A. It was for possession and careless driving in
5 2015.
6 Q. And what was the possession charge related to?
7 A. Heroin.
8 Q. And this is where you said you started using
9 again?
10 A. Yes.
11 Q. How long were you at MDC for those charges then?
12 A. Roughly three months.
13 Q. So when you're out of MDC this second time in
14 2015, what happened next as far as did you go to work
15 anywhere?
16 A. No. I started using again.
17 Q. Did you return to a jail or prison after 2015?
18 A. Yes. In 2017.
19 Q. And what happened at that time?
20 A. I was on the run. So for the breaking and
21 entering, possession, and transferring a stolen motor
22 vehicle. And I got caught in Santa Fe. So I was in jail
23 there. And then they transferred me here to Albuquerque.
24 Q. What was your sentence in 2017 supposed to be?
25 A. It was four -- four years. And then they cut it

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1 in half to two suspended and two years incarceration and
2 prison.
3 Q. Which prison did you go to first in 2017?
4 A. I spent like a month at Western in RDC. Then
5 they transferred me to Springer.
6 Q. And what is the RDC?
7 A. It's like when you first come to prison, it's
8 like all the people coming from their counties or
9 wherever, you stay there and they, you know, check your
10 points to see if you've got enough points to stay at
11 Western. Or if you got minimal points, they'll send you
12 to Springer.
13 Q. And points have to do with what? Do you know?
14 A. Like gang affiliation. Like fights. You know,
15 stuff like that.
16 Q. So you had a few enough points to go to Springer?
17 A. Yes.
18 Q. When you were at Western in 2017, did you hold
19 any job there for that month?
20 A. No. They don't allow you to in RDC.
21 Q. Did you make any grievances when you were at
22 Western for that month in 2017?
23 A. I believe I did.
24 Q. And what was that?
25 A. For them not giving us enough food.

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1 Q. All right. Was that made by you or did you join
2 with several people to make that complaint?
3 A. I believe I did it myself, but along with other
4 people who did their own as well.
5 Q. Did you -- I had asked you before about when you
6 met Susie Zapata. And I think you told me it was at MDC?
7 A. Yes.
8 Q. And which year was that?
9 A. 2015.
10 Q. And you were in MDC at that time for about three
11 months, right?
12 A. Yes.
13 Q. Did you form a relationship with her at that
14 time?
15 A. More of a friendship, you know? We -- you know,
16 we had a chemistry, but she was in a relationship and I
17 was still using. So we just decided to be friends, you
18 know, even though we wanted more, but.
19 Q. Did you see Susie at Springer at all?
20 A. No.
21 Q. Did you know that she was there when you were?
22 A. At Springer?
23 Q. Yes.
24 A. No, she wasn't there when I was there at
25 Springer. She was already at Western.

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<p style="text-align: right;">Page 22</p> <p>1 Q. Any other medical issues that you had that you 2 went for treatment at Western? 3 A. No. 4 Q. At Western, what jobs did you hold? 5 A. I was -- I worked for the unit manager as a 6 painter. I like worked in the yard and in the kitchen. 7 Q. When did you see Susie Zapata first at Western? 8 A. When I got transferred. 9 Q. Were you in the same pod? 10 A. Yeah, we were. 11 Q. I think you told me it was March 2018, right, 12 that you went to Western? 13 A. Correct. Yes. 14 Q. At what point do you consider yourself to be in a 15 relationship with Susie Zapata then? 16 A. That didn't happen until like July 2018. 17 Q. Were you living in the same cell with her at any 18 point? 19 A. The same cell, no. But we lived in the same 20 unit, yes. 21 Q. Do you remember which unit that was? 22 A. It was Unit 3 and Unit 2. 23 MS. MOULTON: Sorry. I missed that, Ms. Garcia. 24 THE DEPONENT: It was Unit 3 and Unit 2. 25 MS. MOULTON: Okay. Thank you.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Healthcare for the Homeless for my bipolar 2 disorder and my Suboxone. 3 Q. And what was the Suboxone for? 4 A. Previous opioid use. I didn't want to relapse. 5 Q. Did you start Suboxone treatment while you were 6 in prison? 7 A. No. 8 Q. So Healthcare for the Homeless, which provider 9 did you see there, which doctor? 10 A. Jennie Glass. 11 Q. Do you still see Dr. Glass? 12 A. Yes. 13 Q. And what do you see her as of today for? 14 A. I see her for the Suboxone and my bipolar 15 disorder and anxiety with PTSD. 16 Q. When's the first time a provider told you that 17 you had anxiety or PTSD? 18 A. Jennie Glass. She was the first. 19 Q. What did you tell Dr. Glass about for that 20 diagnosis? 21 A. I told her like how I was feeling, my mood, you 22 know, being out. Like it was a big change for me. And 23 then I haven't been sober, so, you know? 24 Q. Does Dr. Glass prescribe you anything for anxiety 25 and PTSD?</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. (By Ms. Pullen) Okay. Was the first job you held 2 the unit manager's painter? 3 A. No. That was the -- my last job. My first job 4 was I like worked in the yard. The second job was the 5 kitchen. And my last job was working for the unit 6 manager. 7 Q. When did you leave Western? 8 A. June 2019. 9 Q. Was your conviction time, your sentence fully 10 performed as of June 2019? 11 A. Yes. 12 Q. Okay. Were you on any kind of probation or 13 parole after that? 14 A. Parole for a year and ankle bracelet. 15 Q. Where did you go to after you left Western? 16 A. I went to my parents' house. 17 Q. In Albuquerque? 18 A. Yes. 19 Q. Is that when you started to work for the bag 20 company? 21 A. Yes. That was the end of June 2019. 22 Q. Did you seek any medical care after you left 23 Western from any place? 24 A. Yes. 25 Q. And what was that?</p>	<p style="text-align: right;">Page 25</p> <p>1 A. The gabapentin. 2 Q. How long have you been on gabapentin? 3 A. Maybe about a year, roughly. 4 Q. Do you believe it's been helping you? 5 A. Yes. 6 Q. And how does it help you? 7 A. I'm not as nervous or anxious anymore. 8 Q. Any other treatment for anxiety and PTSD? 9 A. I have my medical marijuana card. 10 Q. Who prescribed that? 11 A. I don't -- I honestly don't know the doctor's 12 name. But I got it at Zia Wellness. 13 Q. And occasionally you use marijuana then? 14 A. At night. Correct. 15 Q. Is that also you said for anxiety and PTSD? 16 A. It's for PTSD, yes. 17 Q. And you believe that's helping you? 18 A. Yes. 19 Q. Any other medications or treatments that you've 20 done other than what we've talked about since getting out 21 of prison? 22 A. I have a thyroid diagnosis as well. 23 Q. And who diagnosed a thyroid issue? 24 A. Dr. Pinon at the UNM cancer center. 25 Q. How did you get to Dr. Pinon? Who referred you?</p>

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<p style="text-align: right;">Page 82</p> <p>1 to -- came here to Albuquerque. And -- 2 Q. How long were you in Albuquerque before you were 3 sent to Western? 4 A. Maybe less than a month. 5 Q. Okay. And you were at MDC? 6 A. Correct. 7 Q. Okay. So how many times have you been in MDC 8 total? 9 A. Tshh. Honestly, I don't even know. 10 Q. Well, you were there twice in 2015. Well, you 11 were there before, right? 12 A. Yes. 13 Q. Before 2015? 14 A. Yes. 15 Q. Okay. All right. So you've been there a 16 multitude of times? 17 A. Yes. Correct. 18 Q. As many as ten? 19 A. Maybe about ten or a little less. 20 Q. Okay. All right. So how long did you stay -- 21 well, let me rephrase the question. It looks as though 22 you were -- you were transferred to Springer in -- well, 23 when were you transferred to Springer, to your 24 recollection? October? Is that what you said? 25 September/October?</p>	<p style="text-align: right;">Page 84</p> <p>1 And sitting here today, you don't have -- or do 2 you have any recollection about how long you were a 3 dishwasher and how long you were a diet cook? 4 A. I don't have any recollection of how long. 5 Q. Okay. But you believe that you started working 6 in the kitchen in approximately what month? You got there 7 in March. 8 A. So maybe like April -- end of March, April. 9 Q. Okay. And you worked there until you believe 10 December or January -- December of 2018? 11 A. Correct. 12 Q. Do you recall if you worked in the kitchen in 13 January of 2019? 14 A. I don't think I did, no. 15 Q. Okay. All right. You were asked about 16 grievances in your interrogatories and specifically this 17 is answer to Interrogatory No. 12 of Summit's 18 interrogatories. You said, "We all filed informal 19 grievances in the kitchen, 10 to 14 individuals, stating 20 that there was a problem with rodents in the kitchen and 21 how we had to clean up after them and kill them and we had 22 no safety gear to do so." Tell me who those 10 to 14 23 individuals were. 24 A. I don't remember everybody's names. But it was I 25 know Shannon McDevitt was one of them. Susie was one of</p>
<p style="text-align: right;">Page 83</p> <p>1 A. Yeah. 2 Q. Okay. And it looks as though for sure you were 3 in Springer from October 2nd of 2017 to 3/15 of 2018. 4 Would you agree with that? 5 A. Correct. 6 Q. Okay. And is it your testimony that you were 7 transferred back to Western in March of '18 because you 8 were suicidal? 9 A. Correct. 10 Q. Okay. When you were at Springer, Ms. Zapata 11 wasn't there at all; is that correct? 12 A. Yeah. Correct. 13 Q. Did you communicate at all with her when you were 14 at Springer in 2017? 15 A. No. 16 Q. Who were you dating at the time? 17 A. Jessica Rivera. 18 Q. Okay. I'm just going through and checking off 19 questions. Sorry. 20 A. It's okay. 21 Q. It takes me a little bit to get through this all. 22 So in your answer to Summit's interrogatories, 23 specifically Interrogatory 9, you talked about 24 preparing -- being a special diet cook for part of the 25 time you were working in the kitchen.</p>	<p style="text-align: right;">Page 85</p> <p>1 them. And like I don't remember their names. They were 2 people I didn't really talk to, you know. 3 Q. Okay. So how can you say and verify that there 4 were 10 or 14 individuals if you don't know who they were? 5 A. Well, we all got together like in the kitchen, 6 you know. And we were telling each other like this isn't 7 right, like we need to all file grievances. We need to 8 make a change. If we don't do nothing, then nothing's 9 going to get done. 10 And everybody agreed. They are like, yeah, yeah, 11 we'll file a grievance, we'll file a grievance, you know? 12 Q. But you don't know if they did? 13 A. Not personally, no, I don't. 14 Q. And you don't know if Shannon did? 15 A. No, I don't. 16 Q. Did she tell you she did? 17 A. She said she did, yeah. 18 Q. And any of the other people that you talked in 19 that meeting, you didn't see them submit grievances? 20 A. No. Because you have to -- there's not like 21 grievances in the kitchen that you can actually grab and 22 fill out. You have to go back to your unit and ask the CO 23 to give you one, you know. So everybody lived in 24 different units and on the other side of the prison and -- 25 you know, so.</p>

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<p style="text-align: right;">Page 94</p> <p>1 traps." Did he tell you anything else about what was 2 going on? 3 A. No. 4 Q. Or being done? 5 A. No. 6 Q. So sitting here today, you don't know what else 7 was done other than the sticky traps? 8 A. Correct. 9 Q. All right. You said in your complaint that 10 Defendant Sanchez knew that inmates were only provided 11 with an inadequate amount of soap to clean the kitchen. 12 Who was present -- well, who distributed the soap? 13 A. Estevan. 14 Q. And what did she say when she distributed the 15 soap? 16 A. She would put the soap -- it was a little 17 Styrofoam cup about this big (indicating). And she said, 18 "That's all you're getting, so don't ask for more." Just 19 like that. 20 Q. Okay. And how big was the Styrofoam cup? 21 A. It was like a little Styrofoam cup. 22 Q. Eight ounce? 23 A. I don't even -- not even an eight ounce. 24 Probably like a six ounce, maybe a four ounce. It was a 25 little, tiny Styrofoam cup.</p>	<p style="text-align: right;">Page 96</p> <p>1 lack of adequate soap to Mr. Sanchez? 2 A. No. 3 Q. Okay. You had a discussion with Ms. Pullen about 4 the unannounced visits to the prison by the inspectors. 5 And we're going to talk about that later on. But my 6 question to you is how did Defendant Leon Martinez hide 7 the infestation? How did he hide the infestation, Warden 8 Martinez, Mr. Martinez? 9 A. He never did anything about it. Everybody knew 10 about the mice. They were all over the place. The CO's 11 would joke about the mouse poop being in our food, saying, 12 "Oh, that's extra protein." Like everybody knew. Nobody 13 did nothing about it. 14 Q. But how did Mr. Martinez hide it? That's your 15 allegation, that he hid it. 16 A. I never talk or seen Mr. Martinez. Not even 17 once. I don't even know what he looks like. So I don't 18 know. 19 Q. Okay. How about Ms. Lucero, Warden 20 Lucero-Ortega, how did she hide that from people? 21 A. The same. I never seen her. I don't even know 22 what she looks like. So I don't know. 23 Q. Okay. How about Mr. Sanchez, how did he hide? 24 A. Well, he never did nothing about it. 25 Q. But how did he specifically hide it?</p>
<p style="text-align: right;">Page 95</p> <p>1 Q. And what kind of soap was it? 2 A. I don't know. It was a -- it was pink. 3 Q. Okay. And that was your dishwashing soap? 4 A. Correct. 5 Q. Is that the only soap you ever got was 6 dishwashing soap? 7 A. Correct. 8 Q. Now, when Ms. Estevan handed you the soap, was 9 Mr. Sanchez present? 10 A. No. Not -- not when I was there. 11 Q. Okay. And did you ever communicate the lack of 12 adequate soap to Mr. Sanchez? 13 MS. PULLEN: Objection, form, foundation. 14 Q. I'm sorry? I didn't hear what you said. 15 A. Can you repeat that? 16 Q. Did you ever communicate the lack of adequate 17 soap to Mr. Sanchez? 18 A. Me, personally, no, I didn't. 19 MS. PULLEN: Objection, form, foundation. 20 A. I didn't. 21 MR. ALLEN: Give a little space for the 22 objection. It's not just you. It's the overlap. 23 Q. (By Ms. Moulton) Did you -- 24 A. Go ahead. 25 Q. Did you hear anyone else communicate a, quote,</p>	<p style="text-align: right;">Page 97</p> <p>1 A. Well, when the inspector would come, nobody would 2 do nothing about it. We tried to file informals. We 3 tried to bring it to his attention. And nothing. Nothing 4 ever happened. 5 So to me that shows that they don't care, you 6 know. They are not the ones eating the food, so. 7 Q. But I'm talking about what he specifically did to 8 hide the infestation? 9 A. I don't know. 10 Q. You don't have any idea? 11 A. I don't. I don't know. 12 Q. Now, you said when the inspector would come, they 13 never did anything about it. How do you know that? 14 A. Because it was -- the mice. They said it was 15 sticky traps. And sticky traps didn't do nothing. They 16 had us stomping on the mice that were alive on the sticky 17 traps and throwing them in the trash. The problem never 18 got handled, so. 19 Q. Who had you doing that? 20 A. Estevan. 21 Q. Okay. But I'm talking about Mr. Sanchez. Do you 22 have any idea what Mr. Sanchez would do if an inspector 23 found something wrong? 24 A. I have no idea what he would do. 25 Q. Okay. All right. Let's talk about -- we talked</p>